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10/648,850	08/26/2003	Guillaume Sebire	915-007.045	3860

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EXAMINER

WILSON, ROBERT W

ART UNIT	PAPER NUMBER
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2619

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/648,850

Applicant(s)

SEBIRE, GUILLAUME

Examiner

Robert W. Wilson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 23, 24, 26-28 and 30-32 is/are allowed.
- 6) ☒ Claim(s) 13-15, 18-22, 25, 29 and 33 is/are rejected.
- 7) ☒ Claim(s) 16-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 13 & 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claims 13 and 22, these claims are directed to a computer readable medium. The applicant's specification lacks antecedent basis for a computer readable medium; however, the applicant's specification teaches a software program and software code per Pgs 6-8. The specification does not define a computer readable medium consequently the metes and bound of the claims cannot be assessed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 14-15, 19-22, & 29 are rejected under 35 U.S.C. 102(E) as being anticipated by Terry (Patent Pub. No 2003/0220119)

Referring to claim 14, Terry teaches: a method (Figs 3 & 4 perform the method) comprising at a mobile communication network (node B-18 is the mobile communication network per Figs 3 & 4 per Pg 1 Para [0020] to Pg 2 Para [0028])) estimating a link quality of a point-to-point multipoint channel while transmitting multicast data on a point-to-point channel to a mobile station (Node B18 has 30 which compares QoS for a given UE or MS against received measures on either the PTP or PTM from UE in order to estimate quality per Pg 1 Para [0020] to Pg 2 Para [0028]))

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and in case said estimated link quality of said point-to-point multipoint channel reaches a required link quality ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data (Depending on what level of QoS is required for the UE or MS the Scheduling mechanism switches from ptp to ptm or vice versa and sends ptm if appropriate or orders per Pg 1 Para [0020] to Pg 2 Para [0028]))

In addition Terry teaches:

Regarding claims 15, said mobile station performing link quality related measurements on said point-to-point channel which point-to-point channel is currently used for transmitting multicast data to said mobile station (40 per Fig 3 performs)

Wherein said mobile communication network estimates said link quality of said point-to-multipoint channel based on said measurement results for said point-to-point channel (30 per Fig 3 performs per Pg 1 Para [0020] to Pg 2 Para [0028]))

Referring to claim 22, Terry teaches: computer readable medium in which a software code when running in a corresponding component of the mobile network realizing the method of claim 14 (B18 has inherent computer readable medium in 30 and 46 per Figs 3 & 4 which store inherent code which perform the method as described in the rejection for claim 14 above per Pg 1 Para [0020] to Pg 2 Para [0028]))

Referring to claim 19, Terry teaches: an apparatus for a mobile communication network (node B-18 per Figs 3 & 4 is the apparatus)

A transmitting portion configured for transmitting multicast data using at least one of point-to-point channel and point-to-multipoint channel (24 per Fig 3 and 46 per Fig 4 determine and transmit ptp or ptm per Pg 1 Para [0020] to Pg 2 Para [0028]))

A processing portion configured for estimating the link quality of a point-to-point multipoint channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to a mobile station and for ordering said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality lies above a required link quality (Node B18 has 30 or processing portions which compares QoS for a given UE or MS against received measures on either the PTP or PTM while 24 per Fig 3 is transmitting ptm. The measurements were received from UE in order to estimate quality. 46 & 24 per Figs 3 & 4 order the change from ptp to ptm if the QoS level is met per Pg 1 Para [0020] to Pg 2 Para [0028]))

Referring to claim 20, Terry teaches the mobile communication system (Figs 4 & 4) comprising a mobile station (UE per Fig 3 per Pg 1 Para [0020] to Pg 2 Para [0028])) and apparatus (B18 per Figs 3 and Fig 4 per Pg 1 Para [0020] to Pg 2 Para [0028]) Refer to above rejection to claim 19 for details) said mobile station including: a receiving portion for receiving multicast data (36 per Fig 3 per Pg 1 Para [0020] to Pg 2 Para [0028])) for receiving multicast data from said mobile communication network (B18 per Fig 4)

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In addition Terry teaches:

Regarding claim 21, wherein said mobile station further includes:

A measuring portion (40 per Fig 3 Pg 1 and per Para [0020] to Pg 2 Para [0028])) configured for performing link quality related measurement on a point-to-point channel via which said mobile station receives multicast data from said subnetwork (B15 per Figs 3 & 4 and per Pg 1 Para [0020] to Pg 2 Para [0028]))

A transmitting portion (34 per Fig 3 and per Pg 1 Para [0020] to Pg 2 Para [0028])) configured for transmitting measurement results of said measuring portion to said sub-network (B18 per Figs 3 & 4)

Wherein said sub-network (B18 per Figs 3 & 4) further includes:

A receiving portion (32 per Fig 3 and per Pg 1 Para [0020] to Pg 2 Para [0028])) configured for receiving from said mobile station measurement results on the link quality of a point-to-point channel employed by said subnetwork (B18 per Figs 3 & 4) For transmitting multicast data to said mobile station (UE) said processing portion (30 per Fig 3 per Pg 1 Para [0020] to Pg 2 Para [0028])) configured for estimating said link quality of said point-to-multipoint channel from measurement results received by said receiving portion from said mobile station (UE)

Regarding claim 25, wherein said apparatus is a subnetwork of a mobile communication network or a part of a subnetwork of a mobile communication network (B18 per Fig 3 & 4 are both per Pg 1 Para [0020] to Pg 2 Para [0028])

Referring to claim 29, Terry, teaches: an apparatus (B18 per Figs 3 & 4) for a mobile communication network (Fig 3 & 4) said apparatus comprising:

Means for transmitting (32 per Fig 3 & per Pg 1 Para [0020] to Pg 2 Para [0028])) multicast data using at least one of a point-to-point channel and a point-to-multipoint

Means for estimating the link quality (30 per Fig 3 and per Pg 1 Para [0020] to Pg 2 Para [0028])) of a point-to-point channel while said transmitting portion uses a point-to-point channel for transmitting multicast data to said mobile station to-multipoint channel and for ordering (46 per Fig 4 orders and per Pg 1 Para [0020] to Pg 2 Para [0028])) said mobile station to switch from said point-to-point channel to said point-to-multipoint channel for receiving said multicast data in case said estimated link quality lies above a required link quality

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 18 & 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terry (Patent Pub. No 2003/0220119)

Referring to claim 18, Terry teaches: a method according to claim 14 in case said mobile station received from said mobile communication network multicast data of at least two multicast services (B18 or mobile communication network provides ptp and ptm or two multicast services) Each mobile communication network switches from said point-to-point to point to multipoint channel for transmitting said multicast data only in case the highest required link quality of all multicast services is reached (Each B18 switches from ptp to ptm based upon QoS per Pg 1 Para [0020] to Pg 2 Para [0028])

Terry does not expressly call for: at least two point-to-point channel

It would have been obvious to one of ordinary skill in the art at the time of the invention that if a UE or mobile station is between cells that there would be at least two point-to-channels associated with the B18s in order for the network to scale.

Referring to claim 33, Terry teaches: apparatus according to claim 10 in case said mobile station received from said mobile communication network multicast data of at least two multicast services (B18 or mobile communication network provides ptp and ptm or two multicast services and per Pg 1 Para [0020] to Pg 2 Para [0028])) Each mobile communication network switches from said point-to-point to point to multipoint channel for transmitting said multicast data only in case the highest required link quality of all multicast services is reached (Each B18 switches from ptp to ptm based upon QoS per Pg 1 Para [0020] to Pg 2 Para[0028]).

Terry does not expressly call for: at least two point-to-point channel

It would have been obvious to one of ordinary skill in the art at the time of the invention that if a UE or mobile station is between cells that there would be at least two point-to-channels associated with the B18s in order for the network to scale.

Allowable Subject Matter

7. Claims 1-9, 10-12, 23-24, 26-28 & 30-32 are allowed. The following is an Examiner's statement of reasons for allowance: Claims 1-9, 10-12, 23-24, & 30-32 are considered allowable since when reading the claims in light of the specification, no prior art references alone or in combination disclose or suggest the combination of limitations specified in the independent claims including:

“requesting from said mobile communication network the transmission of said multicast data via a point-to-point channel in case said determined link quality lies below a given link quality”, as specified in claim 1.

A transmitting portion configured for transmitting a request to a mobile communication network to transmit multicast data via a point-to-point channel, in case said processing portion detects that a determined link quality of a point-to-multipoint channel employed for transmitting said multicast data lies below a given link quality” as specified in claims 10 & 12

“a processing portion configured for switching upon such a request received by said receiving portion from using a point-to-multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station” as specified in claim 11.

“receiving from a mobile station a request to switch from using a point-to-point multipoint channel to using a point-to-point channel for transmitting multicast data to said mobile station” as specified in claim 26

“means for transmitting a request to a mobile communication network to transmit multicast data via a point-to-point channel in case said processing portion detects that a determined link quality of point-to-multipoint channel employed for transmitting said multicast data lies below a given link quality “ as specified in claim 27.

“means for receiving from a mobile station a request to switch from using a point-to-multipoint channel to using a point-to-point for transmitting multicast data to said mobile station” as specified in claim 28.

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8. Claims 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment

9. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

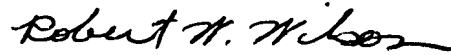
Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on 571/272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert W Wilson
Examiner
Art Unit 2619

RWW
10/31/07